Review of the Guaranteed Service Level Scheme

Statement of Reasons

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1 INTRODUCTION

The Tasmanian Electricity Code provides that a distribution network service provider (a distributor) must comply with any guideline issued by the Regulator, which sets out the minimum level of network reliability performance to be provided to a customer by a distributor.

The Guaranteed Service Level (GSL), which sets out such minimum levels of network reliability performance, is established in the Regulator's *Guaranteed Service Level Scheme Guideline*, July 2012 - Version 3 (GSL Guideline). The Regulator may review the GSL Guideline after consultation with relevant interested parties.

The GSL Guideline requires Tasmanian Networks Pty Ltd (TasNetworks), as the distributor for mainland Tasmania, to make payments to customers affected by outages when the frequency or duration of outages experienced by a customer exceeds prescribed thresholds. The thresholds vary depending on where a customer's connection is located.

The GSL Guideline has not been amended since 2012, and the supply reliability category boundaries have not been revised since the development of the category areas in 2007.

As such, the supply reliability category area boundaries have remained unchanged for a significant period of time, unadjusted for changes to reflect population growth, particularly on the edges of urban areas, and changes in load. In addition, the classification of some customers is likely to no longer be consistent with the classification of customers in other areas with similar population and load characteristics. This may lead to inconsistent GSL payments and, according to TasNetworks, could potentially lead to investment in electricity distribution infrastructure not being directed as the community would expect.

After representations from customers and TasNetworks on this matter, the Regulator conducted a review of the GSL Scheme, including an assessment of the current supply reliability category boundaries. The purpose of the review was to determine whether the current GSL arrangements remained appropriate or whether any changes should be introduced.

As part of its review, the Regulator prepared a Consultation Paper outlining proposed changes to the GSL Scheme, including updating the supply reliability category boundaries, and introducing amendments to the GSL Guideline.

Public comment was sought on the Consultation Paper with submissions closing on 17 April 2024.

The Regulator received submissions from the following organisations as part of that consultation process:

- 1st Energy Pty Ltd (1st Energy);
- Aurora Energy Pty Ltd (Aurora); and
- TasNetworks.

Of the submissions received, both 1st Energy and Aurora supported the outcomes of the Regulator's review and the proposed amendments to the GSL Guideline. Whilst TasNetworks

indicated support for most of the Regulator's proposals, it did suggest some further refinements to the GSL Guideline which are discussed below.

The responses received from the above organisations can be viewed on the OTTER website at www.economicregulator.tas.gov.au, available from the 'Consultations' - 'Past Consultations' tab.

This Statement of Reasons sets out the matters raised in the submissions received and the Regulator's decisions in respect of those comments.

2 SUMMARY OF SUBMISSIONS AND DECISIONS

1st Energy

1st Energy provided a brief e-mail reply in response to the Regulator's Consultation Paper. 1st Energy noted that TasNetworks (as distributor) had already consulted with the entity with respect to the proposed process for retailers to facilitate GSL payments on TasNetworks' behalf. 1st Energy further indicated that it is comfortable with the proposed amendments to the GSL Guideline for introduction from 1 July 2024.

Decision:

No additional amendments to the draft GSL Guideline, Version 4, are required in response to 1st Energy's submission.

Aurora

Aurora outlined its support for the proposed amendments to the current GSL Guideline, noting that the entity had already commenced work on reviewing the systems and processes required to deliver GSL payments to customers on behalf of TasNetworks. Aurora further advised that, ahead of the 1 July 2024 implementation date, it would continue to liaise with the Regulator on the review of the GSL Guideline and any further delivery challenges, should they arise.

Finally, Aurora noted that it was particularly supportive of the proposed mechanism for payments, whereby the retailer may, without the customer's consent, use the GSL payment to offset any amounts that the customer owes the retailer. Aurora's view is that this will allow for a much timelier reimbursement than the previous [cheque-based] method.

Decision:

No additional amendments to the draft GSL Guideline, Version 4, are required in response to Aurora's submission.

TasNetworks

TasNetworks raised concerns with the Regulator's proposal to allow retailers to charge distributors their reasonable costs of passing on GSL payments to customers. TasNetworks suggested that many of the retailers operating in Tasmania already have the capability to pass GSL payments through to customers, noting arrangements already established in other jurisdictions, and that TasNetworks does not expect that such retailers would have any additional costs to enable this change in Tasmania.

TasNetworks stated that where retailers do not currently have the capability to pass on GSL payments to customers, it is important that costs incurred and passed through to customers are efficient. TasNetworks indicated that it does not have the capability to assess retailer costs and proposed that retailers' efficient costs should be assessed as part of the Regulator's annual standing offer price determination.

TasNetworks stated that it should not be required to assess or agree to the reasonable costs of retailers and that the proposed new clauses 3.1.4 and 3.1.5 of the draft GSL Guideline, Version 4, which enable a retailer to recover its reasonable costs from a distributor when the

distributor makes a GSL payment to a customer through the retailer, and require the distributor and retailer to decide upon and agree to the amount of those reasonable costs, be removed.

TasNetworks also discussed the requirement that a distributor notify a customer in writing at their address that a GSL payment has been made. TasNetworks indicated that this implies notification by way of a physical letter. While TasNetworks intends to continue to notify customers by mail, future communication solutions may include SMS or e-mail. TasNetworks suggested that the draft GSL Guideline could be less prescriptive to allow more flexibility with regards to the method of notification.

TasNetworks also suggested that the current draft clause 3.3.4, which requires the distributor to send a GSL payment to the customer's address within five business days if it becomes aware that a retailer has failed to pay the GSL payment to the customer, would not enable cheques to be phased out. TasNetworks proposed that the clause be amended to allow a distributor to make a payment to the customer via direct bank deposit.

Discussion:

Reasonable Costs

The Regulator notes TasNetworks' concerns with respect to the proposal to allow retailers to recover their reasonable costs from the distributor for passing on GSL payments to affected customers, and its suggestion that reasonable costs should be assessed by the Regulator as part of its annual Standing Offer Pricing Determination.

The Regulator's view is that responsibility for ensuring supply reliability, and making GSL payments to eligible customers, lies with the distributor and not the retailer and that retailers should be able to recover their reasonable costs from the distributor.

Aurora, as Tasmania's largest electricity retailer, does not retail in other jurisdictions and, therefore, does not have comparable arrangements in place for passing through GSL payments to customers. The Regulator has continued to liaise with Aurora following the consultation period with respect to this proposal. Aurora representatives have subsequently confirmed in writing that there will be set-up and ongoing costs involved for the entity to be able to pass on GSL payments.

The Regulator also considers that both TasNetworks and the retailers are best placed to determine the retailers' upfront costs to make the required system and procedural arrangements to facilitate the passing on of GSL payments to customers on the distributor's behalf, and the retailers' ongoing administration costs.

As noted in the Regulator's Consultation Paper, as a monopoly provider of transmission and distribution network services, TasNetworks' revenue for these services is regulated by the Australian Energy Regulator (AER). The AER includes an allowance in TasNetworks' regulated revenue allowance for GSL Scheme payments during each regulatory control period. For the next regulatory period, from 1 July 2024 to 30 June 2029, the AER has determined a revenue allowance that is substantially in excess of the average annual value of GSL payments made over the past five years.

It is, therefore, reasonable to suggest that TasNetworks revenue allowance over that period is likely to be sufficient to cover retailers' reasonable costs to pass on GSL payments on behalf of

the distributor. Furthermore, TasNetworks' direct GSL costs may be reduced if it ceases to draw cheques to make GSL payments to customers.

The Regulator does not support TasNetworks' proposals regarding the recovery and determination of reasonable costs.

Communication

Electronic communication between businesses and customers is becoming progressively more common and the Regulator agrees with TasNetworks that the draft GSL Guideline should be less prescriptive with regards to the means by which a distributor may notify a customer that they are entitled to a GSL payment.

The Regulator has determined to replace the requirement that the distributor notify the customer at the customer's billing address for retail sale, but otherwise at the address where the customer's electrical installation is located, with a requirement that the distributor "notify the *Customer* in *writing* that the *Customer* is entitled to the *GSL payment* which will be made through the *Customer's Retailer*".

The Regulator has further determined to include in the GSL Guideline a definition for the term "writing". The proposed definition of "writing" replicates that provided for in the *Acts Interpretation Act 1901* and includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form. Writing need not be expressed in physical form (e.g. on paper) and the inclusion of a definition for this term will give the distributor the flexibility to provide written notification to customers via many other formats including, but not limited to, SMS or e-mail.

GSL payment arrangements

The Regulator has determined to revise the drafting of clause 3.3.1 to specify that the GSL payment is to be made to the customer at the customer's billing address for retail sale, but otherwise at the address where the customer's electrical installation is located, "or by any other method agreed to by the *Customer*". This will give the distributor the flexibility to make direct payments to customers by alternative electronic payment methods when the customer indicates their agreement by providing the necessary payment details.

It is anticipated that the distributor will need to make direct payments to customers where they do not have an agreement with the customer's retailer to pass on GSL payments to customers or where the distributor becomes aware that the retailer has failed to offset the GSL payment against any amounts that the customer owes the retailer, as required in clause 3.3.4. Cheque payment facilities are gradually being phased out of the Australian banking system and providing for alternative means of payment in these cases is necessary.

The Regulator has also determined to revise clauses 3.3.3 and 3.3.4 to better reflect the expectation that a retailer will, as a first course of action, use a GSL payment to offset any amounts that the customer owes to the retailer. As previously drafted, there appeared to be an expectation that the retailer would make a payment to a customer as the first course of action.

The Regulator has also determined to revise clause 3.3.4 to amend the time period by which a distributor has to pay a GSL payment directly to a customer when the distributor becomes aware that a retailer that it has an agreement with has failed to offset a GSL payment against

an amount that the customer owes the retailer, or has failed to pay the GSL payment to the customer as soon as practicable. Instead of making a payment to the customer within five business days, the distributor will be required to make the payment "as soon as practicable". This amendment reflects the likelihood that the distributor will need to seek payment details from the customer, which may take longer than five business days.

Decision:

In light of the matters raised by TasNetworks, the Regulator has decided to revise the draft GSL Guideline, Version 4, by:

- inserting a definition for the term "writing" into the Glossary, and italicising the term in clauses 3.3.1 and 3.3.2;
- redrafting clause 3.3.1 to insert the option for a distributor to make a GSL payment directly to a customer "by any other method agreed to by the *Customer*";
- redrafting clause 3.3.2 to require a distributor to "notify the *Customer* in *writing* that the *Customer* is entitled to the *GSL payment* which will be made through the *Customer's Retailer*" and remove the requirement that the distributor notify the customer at the "*Customer's* billing address for retail sale, but otherwise at the address where the *Customer's electrical installation* is located"; and
- redrafting clauses 3.3.3 and 3.3.4 to prioritise the retailer using the GSL payment to offset any amounts that the customer owes the retailer over making a payment to the customer, and replace "within 5 business days" in clause 3.3.4 with "as soon as practicable".

3 CONSULTATION OUTCOMES

3.1 Revisions to the draft GSL Guideline

The revisions discussed above are presented below.

Clause	Revisions to the draft GSL Guideline
Glossary	Insert the following definition for the term "writing". The definition is to be inserted at the end of the "Glossary" list after the term "Urban and Regional Centres". *"writing"* includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.
Clause 3.3.1	Replace the proposed clause 3.3.1 of the GSL Guideline, Version 4, with the following new clause 3.3.1 (changes from the consultation draft are shown in highlighted text): **3.3 Time for Payments** 3.3.1 If the *Distributor* pays a *GSL payment* directly to a *Customer*, the *Distributor* is to make the payment as soon as practicable after the obligation arises. The *GSL payment* is to be made to the *Customer* where practicable at the *Customer's* billing address for retail sale, but otherwise at the address where the *Customer's* electrical installation is located, or by any other method agreed to by the *Customer*. The *Distributor* must also notify the *Customer* in *writing* that the *Customer* is entitled to the *GSL payment*. Note: The term "writing" has been italicised in clause 3.3.1 to account for the introduction of a definition for that term.
Clause 3.3.2	Redraft the proposed clause 3.3.2 of the GSL Guideline so it reads as follows (changes from the consultation draft are shown in highlighted text): **3.3 Time for Payments** 3.3.2 If the *Distributor* pays a *GSL payment* to a *Customer* through the *Customer's Retailer*[3], the *Distributor* is, as soon as practicable, to: • notify~~provide written notification to~~ the *Customer* in *writing*~~where practicable at the *Customer's* billing address for retail sale, but otherwise at the address where the *Customer's electrical installation* is located,~~ that the *Customer* is entitled to the *GSL payment* which will be made through the *Customer's Retailer*; and • make the *GSL payment* to the *Retailer*, together with any reasonable costs provided for in clause 3.1.4.
Clause 3.3.3	Redraft the proposed clause 3.3.3 of the GSL Guideline so it reads as follows (changes from the consultation draft are shown in highlighted text): **3.3 Time for Payments**

Clause	Revisions to the draft GSL Guideline
	3.3.3 The *Distributor* must ensure that any agreement between the *Distributor* and a *Retailer* for the *Retailer* to pass on a *GSL payment* to the *Customer* on behalf of the *Distributor* must contain the condition that, after receiving the *GSL payment* from the *Distributor* under clause 3.3.2: • the *Retailer* may use the *GSL payment* to offset any amounts that the *Customer* owes the *Retailer* without the *Customer's* consent; or • the *Retailer* must pay the *GSL payment* to the *Customer* by any method agreed to by the *Customer* as soon as practicable.~~;and~~ ~~• the *Retailer* must notmay use the *GSL payment* to offset any amounts that the *Customer* owes the *Retailer* without the *Customer's* consent.~~
Clause 3.3.4	Redraft the proposed clause 3.3.4 of the GSL Guideline so it reads as follows (changes from the consultation draft are shown in highlighted text): **3.3 Time for Payments** 3.3.4 If the *Distributor* is aware that the *Retailer* which has an agreement as referred to in clause 3.3.3 fails to: • offset a *GSL payment* against any amounts that the *Customer* owes the *Retailer*; or • pay the *GSL payment* to the *Customer* as soon as practicable - the *Distributor* must, as soon as practicable, pay the *GSL payment* directly to the *Customer* in accordance with the method as set out in clause 3.3.1. ~~3.3.4 If the *Distributor* is aware that the *Retailer* which has an agreement as referred to in clause 3.3.3 fails to pay the *GSL payment* to the *Customer* as soon as practicable the *Distributor* must, within 5 business days, pay the *GSL payment* directly to the *Customer* in accordance with the method as set out in clause 3.3.1:~~ ~~• fails to pay the *GSL payment* to the *Customer* as soon as practicable; or~~ ~~• uses the *GSL payment* to offset any amounts that the *Customer* owes the *Retailer* without the *Customer's* consent,~~ ~~the *Distributor* must, within 5 business days, pay the *GSL payment* directly to the *Customer* in accordance with the method as set out in clause 3.3.1.~~

The revised draft GSL Guideline, Version 4, which has been provided supplementary to this Statement of Reasons, reflects proposed amendments in marked-up format. Changes from the consultation draft of the GSL Guideline are shown in highlighted text.

The GSL Guideline, Version 3, will remain on the OTTER website until the commencement of Version 4 on 1 July 2024. The updated revised supply reliability category boundary maps will also be published on 1 July 2024.